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No. 295

ARNETT M. HOWARD, KENNETH M. JOHNSON, EDWARD W. MICHEY, ET AL.,

Appellants,

vs.

THE COMMISSIONERS OF THE SINKING FUND OF THE CITY OF LOUISVILLE, ET AL.

APPEAL FROM THE COURT OF APPEALS OF THE COMMONWEALTH OF KENTUCKY

STATEMENT AS TO JURISDICTION

W. A. ARMSTRONG,
DONALD E. ARMSTRONG,
Counsel for Appellants.

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IN THE COURT OF APPEALS OF KENTUCKY

ARNETT M. HOWARD, ET AL.,

vs. *Appellants,*

COMMISSIONERS OF THE SINKING FUND OF THE CITY OF LOUISVILLE,

Appellees

STATEMENT AS TO JURISDICTION

Statement of Case

Appellants are employees of the United States Naval Ordnance Plant in Jefferson County, Kentucky. The instant case originated by appellants filing for a declaration of rights in the Jefferson Circuit Court, in which the validity of an ordinance enacted by the City of Louisville was attacked as being repugnant to Clause 17, Section 8, Article I of the Constitution of the United States. That ordinance proposed to and did annex to the City's existing boundaries a tract of land approximately 135 acres of which is owned by the United States, title to which had been obtained by a condemnation proceedings filed in the United States District Court for the Western District of Kentucky at Louisville in 1940. The action also attacked the validity of an ordinance enacted by the Board of Alderman of the City of Louisville, and known as the Occupational Tax Ordinance, imposing an occupational tax or license fee for the privilege of working within the City, in so far as that ordinance applied to these appellants. The attack on the first mentioned ordinance was based on the fact that after the property had been acquired

by the United States and after exclusive jurisdiction had been accepted by the United States, both under Clause 17, Section 8; Article I of the Constitution of the United States, and by affirmative action of the Acting Secretary of the Navy under authority conferred by Title 40, Section 255, U. S. C. A., the jurisdiction of the State of Kentucky was completely ousted for all purposes, and that state could not thereafter, under the general laws giving cities of the first class the right and authority to annex unincorporated territory outside its boundaries, give to the City of Louisville the right, power or authority to annex this Federally owned area, as any authority or jurisdiction therefore existing in the state had been ceded to the United States.

Special and general demurrers were filed by the appellees, both of which were overruled by the Jefferson Circuit Court. Appellees appealed to the Court of Appeals of Kentucky, and that Court reversed the case with directions to sustain the general demurrer, and holding that the City of Louisville could annex the Federally owned area.

A petition for rehearing was filed by these appellants which was denied by the Court of Appeals of Kentucky without opinion.

Thereafter the mandate of the Court of Appeals was filed in the Jefferson Circuit Court and a judgment entered adjudging (1) that the area comprising the United States Naval Ordnance Plant having been acquired by the United States by and with the consent of the Legislature of the State of Kentucky, and over which area the United States had, on May 23, 1941 accepted exclusive jurisdiction, which acceptance had been acknowledged by the Governor of Kentucky on May 26, 1941, was subject to annexation by the City of Louisville thereafter; (2) that the appellants herein and all other employees of the United States Naval Ordnance Plant were receiving wages for work done and performed within the area on which the United States Naval Ordnance

Plant is located, and to which the United States holds title and has exclusive jurisdiction over same, perform work within the jurisdiction of the City of Louisville; (3) that appellants and all other employees of the United States Naval Ordnance Plant are, as a consequence, subject to the payment of an occupational tax or license fee imposed by Ordinance 83, Series 1950 of the City of Louisville; and (4) that the assessment and collection of the occupational tax or license fee from the appellants and all other employees of the United States Naval Ordnance Plant is not in violation of their constitutional rights, nor does it deprive them of their property without due process of law under the Fourteenth Amendment of the Constitution of the United States.

After the entry of this judgment the appellants appealed to the Court of Appeals of Kentucky, which Court affirmed the judgment of the Circuit Court.

The original opinion of the Court of Appeals of Kentucky in favor of the validity of the annexation ordinance and the validity of the occupational tax or license fee ordinance in so far as it applied to these appellants and all other employees of the United States Naval Ordnance Plant, expressly passed upon the Federal question and ruled in favor of the validity of the ordinances as against appellants' claim that they were repugnant to Article I, Section 8, Clause 17 of the United States Constitution, and to the Fourteenth Amendment of the United States Constitution. Petition for rehearing of the decision and judgment of the Court of Appeals of Kentucky was denied by the Court of Appeals of Kentucky without opinion on May 16th, 1952.

Appellants believe that this cause presents two distinct Federal questions:

1. That the City of Louisville's Annexation Ordinance of 1950 by which the Federally owned territory on which the

United States Naval Ordnance Plant is located, and over which the United States had accepted exclusive jurisdiction prior to the passage of said ordinance, was brought under the jurisdiction of the City of Louisville so as to include this area within the City's boundaries was and is void under Clause 17, Section 8, Article I of the Constitution of the United States and repugnant to Title 40, Section 255, U. S. C. A.

2. Under a proper construction of Title 4, Section 106, U. S. C. A., the Louisville Occupational Tax or License Fee Ordinance as construed by the Court of Appeals of Kentucky is not an income tax within the federal exemption.

Opinion Below

The opinion of the Court of Appeals of Kentucky on the original appeal is attached hereto as Appendix I, and the memorandum opinion on the second appeal is attached hereto as Appendix II. The original opinion is reported in 248 SW 2d 340.

Statutory Provisions Sustaining Jurisdiction

The statutory provisions believed to sustain the jurisdiction of the Supreme Court of the United States is Section 1257(2) of Title 28 of the United States Code.

Statutes of the State Involved

(1) K. R. S. 81.100.—Annexation statute for cities of the first-class reads as follows:

"The boundaries of cities of the first class shall remain as established by law until changed as provided in KRS 81.100 to 81.130. Whenever a city of the first class desires to annex any unincorporated territory or to reduce the boundaries of the city, the city legislative body may enact an ordinance, defining accurately the boundary of the territory proposed to

be annexed or stricken off. The ordinance shall be published in at least ten issues of the daily paper published in and having the largest circulation in the city. In not less than thirty days after the enactment of the ordinance, if the publication has been made and no petition has been filed in the circuit court as provided in K.R.S. 81.100, the city legislative body may enact another ordinance annexing to the city or striking from the city the territory described in the ordinance. Upon the enactment of this ordinance, the territory shall become part of the city, or be stricken from the city."

(a) After federal jurisdiction acquired—this statute became inoperative as to this territory and the contrary ruling is a violation of Article I, Section 8, Clause 17 of the Constitution of the United States.

(2) Annexation Ordinance of 1950 did not bring this area within jurisdiction of the city of Louisville for any purpose and contrary holding violates Article I, Section 8, Clause 17 of the United States Constitution.

(3) Kentucky Constitution, Section 181, authorizes the Legislature to permit cities to impose taxes on franchises, trades, occupations and professions.

(a) K.R.S. 92.281, reads in part as follows:

"Cities of all classes are authorized to levy and collect any and all taxes provided for in Section 181 of the Constitution of the Commonwealth of Kentucky, and to use the revenue therefrom for such purposes as may be provided by the legislative body of the city."

This statute was enacted in 1948 (Chapter 131), many years after the Federally owned area in question was acquired by the United States and over which the Unifed States had previously accepted exclusive jurisdiction, and the statute cannot extend to this area under Article I, Section 8, Clause 17 of the United States Constitution.

(4) Ordinance 83, Series 1950—Occupational Tax Ordinance.

(a) Did not apply to this Federally owned area (supra).

(b) Was not an income tax within meaning of Title 4, Section 106, U. S. C. A.—City of Louisville v. Sebree, 308 Ky. 420.

(c) Is violative of the Fourteenth Aemndment of the Constitution of the United States.

(5) Pertinent parts of Ordinance 179, Series 1950, and Ordinance 83, Series 1950, are attached hereto as Appendix 3 and Appendix 4.

Date of Judgment and of Application for Appeal

The original opinion and judgment of the Court of Appeals of Kentucky was rendered on March 28, 1952. A petition for rehearing was denied on May 16th, 1952, without opinion. The second opinion of the Court of Appeals of Kentucky was rendered on June 20, 1952.

Cases Believed to Sustain Jurisdiction

The cases believed to sustain the jurisdiction of the Supreme Court of the United States are:

King Mfg. Co. v. City Council of Augusta, 277 U. S. 100, 48 S. Ct. 489, 72 L. Ed. 801.

Jamison v. State of Texas, 318 U. S. 413, 63 S. Ct. 669, 87 L. Ed. 869.

Breard v. City of Alexandria, La., 341 U. S. 622, 71 S. Ct. 920.

In all three of these cases the validity of city ordinances were involved and their validity upheld by the highest court of the state to which they could be appealed, and were then appealed to the Supreme Court of the United States and its right to consider city ordinances as state statutes upheld.

Raising the Federal Question

In appellants' petition the validity of the ordinance annexing the Federal area was attacked as being in violation of Clause 17, Section 8, Article I of the Constitution of the United States, and as violative of the Fourteenth Amendment of the Constitution of the United States. The validity of the occupational tax or license fee ordinance as it applied to these appellants was attacked on the ground that it was not an income tax within the meaning of Title 4, Section 106, U. S. C. A., as the ground on which the United States Naval Ordnance Plant is located was exclusively under the jurisdiction of Congress.

These questions were expressly passed upon by the Court of Appeals of Kentucky, and it held that the annexation of the Federal area in question involved only a question of political geography and not a clash of political sovereignties.

Statement of the Ground upon Which It Is Contended the Questions Involved Are Substantial

The decision of the Court of Appeals of Kentucky is in direct contravention of a long line of cases from the Supreme Court of the United States. In fact, in its original opinion, the Court of Appeals of Kentucky said:

> "It is the position of the appellees that, with respect to areas under the exclusive jurisdiction of Congress, the jurisdiction of the state and its political subdivisions is completely ousted, and to all intents and purposes the land ceases to be a part of the state within whose borders it lies, that such areas occupy the same status as if they were separate provinces or countries. In support of this position, appellees cite such cases as Ft. Leavenworth R. R. Co. v. Lowe, 114 U. S. 525, 4 S. Ct. 995, 29 L. Ed. 264; Arlington Hotel Co. v. Fant, 278 U. S. 439, 49 S. Ct. 227, 73 L. Ed. 447; United States

v. Unzeuta, 281 U. S. 138, 50 S. Ct. 284, 74 L. Ed. 761; Surplus Trading Company v. Cook, 281 U. S. 647, 50 S. Ct. 455, 74 L. Ed. 1091; Standard Oil Company v. California, 291 U. S. 242, 54 S. Ct. 381, 78 L. Ed. 775; Silas Mason Co. v. Tax Commission, 302 U. S. 186, 58 S. Ct. 233, 82 L. Ed. 187; and Pacific Coast Dairy Co. v. Department of Agriculture of California, 318 U. S. 285, 63 S. Ct. 628, 87 L. Ed. 761. We do not question the soundness of those cases, but we think they are not controlling of the issues before us.".

By the above quotation we find the Court of Appeals of Kentucky saying in one breath that the cases cited by appellants are sound and uphold their contention, and in the other breath saying that they are not sound. The ruling is opposed to the decisions of the Supreme Court of the United States. As admitted by the Court of Appeals of Kentucky, the soundness of the cited cases is not questioned, and as those cases hold that under the facts as in this cause, the jurisdiction of the state is completely ousted for all purposes, and to all intents and purposes the land ceases to be a part of the state within whose borders it lies, the state cannot under its general laws give to the City of Louisville the right, power and authority to annex the Federal area so as to make it a part of the City and subject to its laws. The jurisdiction which is ousted from the state is "complete" jurisdiction for all purposes. Nothing is retained. The land in question cannot, under all of the decisions of the Supreme Court of the United States, with which the Court of Appeals of Kentucky is apparently in accord, be subject to the jurisdiction of the state and/or the City for any purpose.

S. R. A., Inc. v. *Minn*, 66 S. Ct. 749, 327 U. S. 558.

2. The Federal question involved herein has not been directly determined by the Supreme Court of the United States, and a determination of that question, i. e., the right

of a city to annex Federal areas over which the state has ceded its jurisdiction—should be made by the Supreme Court as soon as possible.

3. The decision of the Court of Appeals holds that the Occupational Tax or License Fee imposed by Ordinance 83, Series 1950, is not an "income tax" within the meaning of the Constitution of the State of Kentucky, but that it is an "income tax" within the meaning of the Congressional Act of 1940, being Title 4, Section 106, U. S. C. A.

The right to levy and collect an "income tax" under Title 4, Section 106, U. S. C. A. is predicated on the taxing authority (in this case the City of Louisville) "having jurisdiction to levy such a tax." In the absence of such jurisdiction (and the City of Louisville is barred by the Constitution of the State from levying and collecting an income tax) the taxing authority cannot levy and collect an income tax under Title 4, Section 106, U. S. C. A. aforesaid.

Title 4 does not give to state and other taxing authorities the absolute right to levy and collect an income tax, but simply gives to those taxing authorities who can qualify under the clause "having jurisdiction to levy such a tax" the right to levy and collect an income tax from Federal employees in Federal areas.

4. The occupational tax or license fee imposed by Ordinance 83, Series 1950, is not an income tax, as was held by the Court of Appeals of Kentucky in the case of *City of Louisville* v. *Sebree*, 308 Ky. 420, 214 S. W. 2d 248, nor is it a tax "based on income", as it does not affect receipts from stock dividends, interest on bonds, notes, deposits, or other income-producing activities.

Conclusion

We respectfully submit that the Supreme Court of the United States has jurisdiction of the appeal.

Respectfully submitted,

W. A. ARMSTRONG,
DONALD E. ARMSTRONG,
Counsel for Appellants.

Dated Aug. 4, 1952.

APPENDIX 1

COURT OF APPEALS OF KENTUCKY

COMMISSIONERS OF THE SINKING FUND OF CITY OF LOUISVILLE, ET AL., *Appellants*

v.

ARNETT M. HOWARD, ET AL., *Appellees*

Appeal from Jefferson Circuit Court, Chancery Branch, First Division, Judge Lawrence F. Speckman.

OPINION OF THE COURT BY COMMISSIONER CULLEN—REVERSING

In a declaratory judgment action, the Jefferson Circuit Court held that the City of Louisville was not entitled to collect the city's occupational license tax from persons employed at the Naval Ordnance Plant, located upon property owned by the United States Government. The city appeals.

The controlling question is whether the city had power to annex the Federal area and make it a part of the city, so that persons working in the area would come within the terms of the license tax ordinance, providing that the tax shall be computed on the gross receipts from work done, business conducted or services performed "in the City."

The area embracing the Naval Ordnance Plant, was acquired by the Federal Government, by condemnation, in 1940. Thereafter, in 1941, the Secretary of the Navy accepted "exclusive jurisdiction" over the land, and the acceptance was acknowledged by the Governor of Kentucky. In 1947, the City of Louisville enacted an ordinance proposing the annexation of certain territory adjoining the city, including the Federal area, and in 1950 a final annexation ordinance was enacted, declaring the territory to be annexed to the city. The occupational license tax ordinance was originally enacted in 1948, and was reenacted in 1950.

By an Act of 1940, Title 4, Section 106, U.S.C.A., Congress provided that any state or "any duly constituted taxing authority therein, having jurisdiction to levy such a tax" may levy and collect income taxes in any Federal area within the state "to the same extent and with the same effect as

though such area was not a Federal area." By Title 4, Section 110, (c) U.S.C.A., "income tax" is defined as "any tax levied on, with respect to, or measured by, net income, gross income or gross receipts."

It is agreed by all parties that the area embracing the Naval Ordnance Plant came under the "exclusive jurisdiction" of Congress by virtue of Art. I, Section 8, Clause 17 of the Federal Constitution, KRS 3.010, the acceptance of jurisdiction by the Secretary of the Navy, and the recognition of that acceptance by the Governor of Kentucky. The difference of opinion is as to the effect of such exclusive jurisdiction.

It is the position of the appellees that, with respect to areas under the exclusive jurisdiction of Congress, the jurisdiction of the state and its political subdivisions is completely ousted, and to all intents and purposes the land ceases to be a part of the state within whose borders it lies; that such areas occupy the same status as if they were separate provinces or countries. In support of this position, appellees cite such cases as Ft. Leavenworth R.R. v. Lowe, 114 U. S. 525, 5 S. Ct. 995; Arlington Hotel Co. v. Fant, 278 U. S. 439, 49 S. Ct. 227; United States v. Unzeuta, 281 U. S. 138, 50 S. Ct. 284; Surplus Trading Company v. Cook, 281 U. S. 647, 50 S. Ct. 455; Standard Oil Co. v. California, 291 U. S. 242, 54 S. Ct. 381; Silas Mason Co. v. Tax Commission, 302 U. S. 186, 58 S. Ct. 233; and Pacific Coast Dairy v. Dept. of Agriculture of California, 318 U. S. 285, 63 S. Ct. 628. We do not question the soundness of those cases, but we think they are not controlling of the issue before us.

The cited cases are authority for the proposition that the state is ousted of any jurisdiction to exercise sovereignty within an area under the exclusive jurisdiction of Congress. But in the case before us, the act of annexation by the city did not, of itself, represent any effort or attempt by the city to exercise jurisdiction within the area of the ordnance plant. The city merely elected that the area be included within its geographic boundaries as a political subdivision of the state.

We are impressed with the argument on behalf of the city that the annexation involved only a question of political geography, and not a clash of political sovereignties. Cer-

tainly, it could be of no concern to Congress, in which of its political subdivisions a state chose to consider a Federal area to be physically situated. Whether the ordnance plant is considered to be in Louisville or outside of Louisville could in no way affect the exclusive jurisdiction of Congress to govern the area embracing the plant.

In Davis v. Howard, 306 Ky. 149, 206 S.W. 2d 467, we had under consideration another section of the Congressional Act of 1940, authorizing states to collect sales or use taxes in Federal areas. We held that the Act constituted a recession by the Federal Government, to the state, of a portion of the exclusive jurisdiction theretofore possessed by Congress, and that acceptance of such recession on the part of the state would be presumed in the absence of the showing of a contrary intent.

Under the Davis case, and those from other jurisdictions therein cited, it would appear that a Federal area within the geographic boundaries of a state lies dormant, so far as concerns the authority of the state to exercise jurisdiction within the area, as long as Congress retains exclusive jurisdiction, but when Congress recedes part of the jurisdiction the area comes back to life as a part of the state to the extent of the recession. It seems to us that, even before a recession of jurisdiction by Congress, the state should have the right to determine in which of its political subdivisions a Federal area shall be deemed to be located, anticipating a recession of jurisdiction, such as the one in this case, that will extend to the political subdivisions as well as the state.

Actually, in the case before us, Congress had receded part of its jurisdiction to Kentucky, and to the political subdivisions of Kentucky, prior to the annexation by Louisville. The recession recognized that the land was located in Kentucky, not only with reference to the jurisdiction of the state, but also with reference to the jurisdiction of political subdivisions of the state.

We are advised that the specific question of the power of a city to annex a Federal area has been passed on only in Wichita Falls v. Bowen, 143 Texas 45, 182 S. W. 2d 695, and in Norfolk County v. City of Portsmouth, 186 Va. 1032, 45 S. E. 2nd 136. In both those cases the power to annex was upheld.

It is our opinion that the annexation of the ordnance plant by the City of Louisville was valid.

The appellees point out that the Congressional Act of 1950 (1940) authorizes only the levy of an "income tax", and that in City of Louisville v. Sebree, 308 Ky. 420, 214 S. W. 2nd 248, this Court specifically held the Louisville occupational tax was not an income tax. It is true we held in the Sebree case that the tax was not an income tax within the meaning of the Kentucky Constitution, but the question here is whether it is an income tax as that term is defined in the Act of Congress. And previously pointed out in this opinion, the Act of Congress defines "income tax" to include any tax "measured by" net income, gross income or gross receipts. We said in the Sebree case that the Louisville tax is a license tax which "measures the value of the privilege by the amount of earnings or net profits." The tax clearly falls within the definition made by the Act of Congress.

The judgment is reversed, with directions to enter a judgment sustaining the general demurrer of the defendants, and upholding the right of the city to collect the occupational license tax from persons employed at the Naval Ordnance Plant.

APPENDIX 2

June 20, 1952.

COURT OF APPEALS OF KENTUCKY

Appeal from Jefferson Circuit Court, Chancery Branch, First Division, Macauley L. Smith, Judge

ARNETT M. HOWARD, et al., *Appellants,*

v.

COMMISSIONERS OF THE SINKING FUND OF CITY OF LOUISVILLE, et al., *Appellees*

Per CURIAM:

This case was before this Court on a demurrer to the petition. Commissioners of the Sinking Fund of Louisville

v. Howard, Ky., 248 S. W. 2d 340. The judgment of the Circuit Court overruling defendants' demurrer was reversed for reasons set out in that opinion. Upon return of the case to the Circuit Court, judgment was entered in conformity with our opinion. This is an appeal from that judgment. No new issue or additional question is presented, and the Court has not changed its view on any of the questions formerly presented.

Judgment affirmed.

Attorneys for Appellants: W. A. Armstrong, D. E. Armstrong, Louisville, Ky.

Attorneys for appellees: Gilbert Burnett, City Attorney; Alex Humphrey, Asst. City Attorney, Louisville, Ky.

APPENDIX 3

ORDINANCE NO. 179, SERIES 1950

An Ordinance Annexing to the City of Louisville Certain Territory in the County of Jefferson on the South Side of and Adjacent to the Present Boundary Line of the City of Louisville from the Said Boundary Line Southwardly and Between Taylorsville Road and Iroquois Park and to Extend the Boundary Line of the City of Louisville so as to Include Same

Whereas, by ordinance heretofore duly enacted by the Board of Aldermen of the City of Louisville and approved April 1, 1947, being Ordinance No. 66, Series 1947, the City of Louisville proposed to annex to the City the tract of land hereinafter more particularly described, and which territory lies to the south of and adjacent to a present southern boundary line of the City of Louisville; and

Whereas, by judgment duly entered in the Jefferson Circuit Court, Common Pleas Branch, Third Division, in actions No. 301302, J. W. Borders, et al. v. City of Louisville; 301308, George Nenner, et al. v. City of Louisville; 301315, Carl E. Brewer, et al. v. City of Louisville; 301316, Francis T. Schmidt, et al. v. City of Louisville; 301317, Fred P. Lotz, et al. v. City of Louisville; 301318, W. S. Bryan, et al.

v. City of Louisville; 301319, W. L. Baker v. City of Louisville; 301326, Payton Westerfield, et al. v. City of Louisville; 301356, Leonard Leo, et al. v. City of Louisville, the said proposal to annex under the said Ordinance No. 66, Series 1947, was approved, which judgment has been certified to the Board of Aldermen of the City of Louisville; Now Therefore, Be it Ordained by the Board of Aldermen of the City of Louisville:

Section 1. There is hereby annexed to the City of Louisville by extending the boundary line of the City of Louisville so as to include same, that certain territory which is now embraced within the County of Jefferson to the south of and adjacent to a present southern boundary line of the City of Louisville, more particularly described as follows, to-wit:

"Beginning at the intersection of the Boundary Line of the City of Louisville and the east line of Newburg Road; thence south with the Boundary Line of the City of Louisville and the east line of Newburg Road to the north line of Dundee Road; thence east with the north line of Dundee Road to the west line of Clagget Drive; thence north with the west line of Clagget Drive to the north line of Emerson Avenue; thence east with the north line of Emerson Avenue and the south, west and south boundary lines of Strathmoor Manor to the west line of Bardstown Road; thence north with the west line of Bardstown Road to the Boundary line of the City of Louisville; thence east with the Boundary line of the City of Louisville to the east line of Bardstown Road; thence south with the east line of Bardstown Road to the south Boundary line of Strathmoor Gardens; thence east with the south Boundary line of Strathmoor Gardens and the south Boundary line of the Town of Kingsley to the west line of Bon Air Avenue; thence north with the west line of Bon Air Avenue and the extension thereof to the north line of Taylorsville Road; thence east with the north line of Taylorsville Road to the west line of Dutchmans Lane; thence north and east with the west and north lines of Dutchmans Lane to a point in the extension of the east line of Air-

view Subdivision; thence south with the extension of and the east line of Airview Subdivision to the north line of Taylorsville Road; thence south and at right angles to Taylorsville Road 200.00 feet from the north line of Taylorsville Road to a point; thence west with a line 200.00 feet south of the north line of Taylorsville Road and parallel thereto to the intersection with a line 200.00 feet southeast of Ribble Road; thence southwest with a line 200.00 feet southeast of and parallel to Ribble Road to a point 200.00 feet northeast of the northeast line of Bon Air Avenue; thence southeast with a line 200.00 feet northeast of and parallel to Bon Air Avenue to a point 200.00 feet south of the south line of Goldsmith Lane; thence west with a line 200.00 feet south of and parallel to the south line of Goldsmith Lane to a point 200.00 feet west of the west line of Bardstown Road; thence north with a line 200.00 feet west of and parallel to the west line of Bardstown Road to a point 450.00 feet north of the north line of Gardiner Lane; thence west with a line 450 feet north of and parallel to the north line of Gardiner Lane to the intersection of said line with Schuff Avenue; thence continuing west with a line 450.00 feet north of and parallel to the north line of Schuff Avenue to the west line of Poplar Level Road; thence south with the west line of Poplar Level Road to the south right of way line of the Southern Railway; thence west and northwest with the south and southwest right of way line of the Southern Railway to a line midway between Springdale Avenue and Farmdale Avenue; thence west with a line midway between Springdale Avenue and Farmdale Avenue and its extension to the west of a line midway between Springdale Avenue and Farmdale Avenue to the west line of Preston Highway; thence south with the west line of Preston Highway to the northwest line of Johnson Road; thence southwest with the northwest line of Johnson Road to the northeast line of Ashbottom Road; thence northwest with the northeast line of Ashbottom Road to a point 2200 feet southeast of the center line of the intersection of Eagan Avenue and

Ashbottom Road as measured along the east line of Ashbottom Road; thence southwest to the intersection of the west right of way line of the Louisville and Nashville Railroad and a line 200.00 feet southeast of and parallel to the southeast line of Strawberry Lane; thence southwest with a line 200.00 feet southeast of and parallel to the southeast line of Strawberry Lane to the west line of Third Street Road; thence south with the west line of Third Street Road to the north line of Palatka Road; thence west with the north line of Palatka Road to the Boundary Line of the City of Louisville; thence along the Boundary Line of the City of Louisville in a northerly and easterly direction to the east line of Newburg Road the point of beginning, and excluding all areas included in incorporated towns or villages."

LUCILLE D. OGBURN,
C. B. A.;
DENNIS B. ZAK,
P. B. A.;
CHARLES CAREY,
Mayor.

Approved 6-30-50.

APPENDIX 4

ORDINANCE 83, SERIES 1950

On and after July 1, 1950, every person, association, corporation, or other entity engaged in any occupation, trade, profession, or other activity in the City shall pay into the Sinking Fund of the City for the purposes set forth under Section 91.200 of the Kentucky Revised Statutes as amended by an Act of the General Assembly of 1950, an annual license fee for the privilege of engaging in said activities, which license fee shall be measured by one per centum of (a) all salaries, wages, commissions and other compensation earned by every person in the City for work done or services performed or rendered in the City; and (b) the net profits of all businesses, professions, or occupations from activities conducted in the City.